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CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROSAURO MEZA FRANCO; et al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 07-72035

Agency Nos. A95-445-169

A95-445-170

A95-445-171

MEMORANDUM *

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted November 13, 2007 **

Before: McKEOWN, TALLMAN and CLIFTON, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")
order denying petitioners' motion to reconsider.

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

The BIA's denial of a motion to reconsider is reviewed for abuse of discretion. *See Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002). The BIA did not abuse its discretion in denying the motion to reconsider with respect to petitioner Julio Cesar Sandoval Telles, A# 95-445-171, because petitioner does not have a qualifying relative as defined in 8 U.S.C. § 1229b(b)(1)(D) and is statutorily ineligible for cancellation of removal relief. *See Molina-Estrada v. INS*, 293 F.3d 1089, 1093-94 (9th Cir. 2002). Respondent's motion for summary disposition is granted with respect to petitioner Julio Cesar Sandoval Telles, because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard). Accordingly, the petition for review is denied with respect to Julio Cesar Sandoval Telles.

Respondent's motion to dismiss this petition for review with respect to petitioners Rosauero Meza Franco, A# 95-445-169, and Maria Nelva Sandoval Telles, A# 95-445-170, for lack of jurisdiction is granted. *See* 8 U.S.C. § 1252(a)(2)(B)(i); *Fernandez v. Gonzales*, 439 F.3d 592, 601 (9th Cir. 2006) (concluding that the court lacks jurisdiction to review the Board of Immigration

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Appeals' denial of motion to reopen for failure to establish a prima facie case if a prior adverse discretionary decision was made by the agency).

The temporary stay of removal and voluntary departure confirmed by Ninth Circuit General Order 6.4(c) and *Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004), shall continue in effect until issuance of the mandate.

All other pending motions are denied as moot.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.